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8 *Attorneys for Defendants*

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 Seiko Epson Corporation and Epson
America, Inc.,

12 Plaintiffs,

13 v.

14 InkSystem LLC, AF LLC, ART LLC,
15 Lucky Print LLC, Inkredible LLC LLC,
16 Andriy Kravchuk, Igor Bielov, Artem
Koshkalda, Vitalii Maliuk, and Does 2 – 10,
inclusive,

17 Defendants.

Case No. 3:16-cv-00524-RCJ-VPC

WEIDE & MILLER'S EMERGENCY
MOTION FOR LEAVE TO APPEAR
TELEPHONICALLY FOR HEARING
SET ON AUGUST 3, 2017, AT 2:00 P.M.

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21 Counsel for Defendants, Weide & Miller, Ltd. ("Weide & Miller") hereby requests
22 leave to make a telephonic appearance at the hearing of the parties' Case Management
23 Conference currently set for hearing before the Court (Magistrate Judge Cooke), at 2:00 p.m.
24 on August 3, 2017. The Court previously ordered Defendants' counsel to appear in person at
25 the Case Management Conference. Due to recent events described below, it is now untenable
26 for Defendants' counsel to appear in person and Weide & Miller respectfully requests leave to
27 appear at the Case Management Conference telephonically. This motion is brought on an
28 **emergency basis** as the Case Management Conference is scheduled for today and is based on

FCA-w-0585

1 the argument below and the attached Declaration of F. Christopher Austin (“Austin Decl.”).

2 On evening of August 1, 2017, Defendants were served copies of the previously sealed
3 Temporary Restraining Order (ECF No. 105) as well as the Temporary Restraining Order;
4 Order for Asset Seizure and Impoundment; Order to Show Cause re Issuance of Pre-Judgment
5 Asset Freeze (ECF No. 106) signed by the Court (the “Temporary Restraining Orders”). Austin
6 Decl., ¶ 3.

7 On August 2, 2017, Defendants discovered that pursuant to the Temporary Restraining
8 Orders, several of Defendants bank accounts, including accounts not listed in the Temporary
9 Restraining Orders, were frozen, effectively leaving Defendants without any funds to pay their
10 attorneys in this matter. Austin Decl., ¶ 4.

11 On evening of August 2, 2017, Defendants informed their counsel, Weide & Miller,
12 that they will not be able to pay any travel expenses incurred by Weide & Miller in connection
13 with this litigation, directed the cancellation of the airline reservation for Mr. Austin to travel to
14 Reno to personally attend the hearing set for August 3, 2017, and instructed Weide & Miller
15 not to take any further actions or incur any additional attorneys fees on behalf of any of the
16 Defendants. Austin Decl., ¶ 5.

17 Faced with the prospect of incurring costs that Defendants have expressly informed
18 Weide & Miller Defendants will not and cannot pay as well as incurring additional attorneys
19 fees that Defendants have expressly instructed Weide & Miller not to incur, Weide & Miller
20 has ceased all work on this matter on behalf of all Defendants with the exception of requisite
21 filing to the Court necessitated by Defendants’ instructions. Austin Decl., ¶ 6. Because Weide
22 & Miller was expressly ordered to appear at the Case Management Conference, Weide & Miller
23 respectfully requests leave to now attend the Case Management Conference telephonically.

24 Weide & Miller have provided notice of this filing with Plaintiffs’ counsel and have
25 asked whether Plaintiffs would object to the relief requested. As of the time of the filing of this
26 request, Weide & Miller have not received a response from Plaintiffs. Austin Decl., ¶ 7.

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1 Based on the foregoing, Weide & Miller hereby requests that the Court allow
2 Defendants' counsel leave to appear telephonically at the hearing set for August 3, 2017.

3 Dated this 3rd day of August, 2017.

4 **WEIDE & MILLER, LTD.**

5
6 /s/ F. Christopher Austin

F. Christopher Austin, Esq.

7 Ryan Gile, Esq.

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**DECLARATION OF F. CHRISTOPHER AUSTIN
IN SUPPORT OF WEIDE & MILLER'S EMERGENCY MOTION FOR LEAVE TO
APPEAR TELEPHONICALLY**

I, F. CHRISTOPHER AUSTIN, declare under penalty of perjury under the laws of the United States as follows:

1. I am an attorney with the law firm of Weide & Miller, Ltd., counsel to Defendants in this action.

2. I have personal knowledge and am competent to testify to the facts below, and that this Declaration is submitted in support of the pleading referenced above. The facts herein are true to the best of my own personal knowledge, except for those facts stated upon information and belief, and as to those facts, I believe them to be true.

3. On evening of August 1, 2017, we were served on behalf of Defendants copies of the previously sealed Order Granting Temporary Restraining Order (ECF No. 105) as well as the Temporary Restraining Order; Order for Asset Seizure and Impoundment; Order to Show Cause re Issuance of Pre-Judgment Asset Freeze (ECF No. 106) signed by the Court (the "Temporary Restraining Orders").

4. On August 2, 2017, Defendants discovered that pursuant to the Temporary Restraining Orders, Defendants bank accounts were frozen, effectively leaving Defendants without any funds to pay their attorneys in this matter.

5. Upon learning of the impact of the Temporary Restraining Orders, Defendants contacted me after business hours on evening of August 2, 2017, and informed me that they had no access to any funds with which to pay my firm for its services, and specifically stated that they will not be able to pay any travel expenses incurred by Weide & Miller in connection with this litigation. They then directed the cancellation of the airline reservation for me to travel to Reno to personally attend the hearing set for August 3, 2017, and instructed me that Weide & Miller was not to take any further actions or incur any additional attorneys fees on behalf of any of any of the Defendants.

6. As obligated by the Rules of Professional Responsibility with regard to the representation of clients, and faced with the prospect of incurring costs that Defendants have

1 expressly informed me and my firm that they will not and cannot pay as well as incurring
2 additional attorneys fees that Defendants have expressly instructed Weide & Miller not to incur,
3 Weide & Miller has ceased all work on this matter on behalf of all Defendants with the
4 exception of requisite filings to the Court necessitated by Defendants' instructions.

5 7. This morning, I personally discussed this filing with Annie Wang and provided
6 her with a copy of it, asked whether Plaintiffs would object to my appearing telephonically
7 under these circumstances. Ms. Wang said she would discuss the matter with her client. As of
8 the time of filing this request, I have not yet heard back from Plaintiffs' counsel.

9 Dated this 3rd day of August, 2017.

10 /s/ F. Christopher Austin
11 F. CHRISTOPHER AUSTIN
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of WEIDE & MILLER, LTD. and that on July 13, 2017, I served a full, true and correct copy of the foregoing **WEIDE & MILLER'S EMERGENCY MOTION FOR LEAVE TO APPEAR TELEPHONICALLY FOR HEARING SET ON AUGUST 3, 2017, AT 2:00 P.M.** via the United States District Court's CM/ECF filing system upon the following:

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/s/ F. Christopher Austin
An employee of WEIDE & MILLER, LTD.